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C O N F I D E N T I A L BRUSSELS 000975

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E.O. 12958: DECL: 06/25/2008  
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SUBJECT: EU ON GITMO DETAINEES

REF: A. BRUSSELS 00180 B. LISBON 01237

Classified By: Alyce Tidball, Deputy Minister Counselor for Political Affairs for reasons 1.4 (b) and (d)

¶1. (C/NF) On June 26, 2008, Deputy Minister Counselor for Political Affairs and PolOff met with Riina Kionka, Personal Representative for Human Rights for HR Javier Solana. She confirmed she had raised the issue of Guantanamo Bay detainee re-settlement with HR Solana earlier this year. Noting that it had been difficult for Solana to raise the issue with Member States (MS) earlier, because Kosovo's independence dominated the agenda at EU Council meetings, Kionka said Solana was finally able to bring up detainee settlement at the April GAERC meeting. She described the MS's reaction as "fairly disappointing," because Ministers did not take it up and there was almost no discussion of the issue.

¶2. (C/NF) Kionka suggested smaller MS may be nervous about permitting re-settlement of detainees on their soil for fear of potential blowback from other MS. She said that if a MS were to move forward with the issue, Solana would try to draw up support by making positive remarks about such a move. Kionka also suggested the best way to move forward in re-settling Guantanamo detainees is for the U.S. to target larger MS, specifically the UK, Germany and France. With the support of larger MS, smaller MS might come on board. Kionka said the Portuguese MFA Legal Advisor told her Portugal supported discussion of the issue at the EU Council Working Group on Public International Law (COJUR) and, separately, adoption of an EU Common Position on the issue. Kionka opined that this would be the "quickest way to kill it", as it would undoubtedly draw attention and negative reaction. She advised the Portuguese this was not the way to go.

¶3. (C/NF) Kionka also said the recent U.S. Supreme Court decision regarding the detainees' right to challenge their detention in U.S. civilian courts "dovetails nicely" with this issue. The European Union has consistently supported the detainees' rights to habeas corpus and Kionka was pleased with the Supreme Court decision. She commented, however, that mixed policy signals were coming out of Washington.